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10/015,280	12/12/2001	Michael Wayne Brown	AUS920010823US1	7043

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EXAMINER

ELAHEE, MD S

ART UNIT	PAPER NUMBER
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2697

DATE MAILED: 09/30/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/015,280

Applicant(s)

BROWN ET AL.

Examiner

Md S Elahee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 35-39 is/are pending in the application.
- 4a) Of the above claim(s) 31-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 35-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an amendment filed on 07/10/03. Claims 1-30 and 35-39 are pending.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-30 and 35-39 have been considered but are moot in view of the new ground(s) of rejection.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-6, 9-17 and 20-30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6, 9-17 and 20-30 of copending Application No. 10015267. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the present invention recites a method for identifying a particular callee, said method comprising: detecting, at a destination device, a voice utterance of a callee; and identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable

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as an authenticated identity of said callee for a call. Claim 1 of the copending Application recites a method for identifying a particular callee, said method comprising: detecting, at an origin device, a voice utterance of a callee from a destination device; and identifying, at said origin device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call. It is clear that these two claims are very similar and are not patentably distinct from each other.

Claim 12 of the present invention recites a system for identifying a particular callee, said system comprising: a destination device connected to a telephone network; means for detecting, at said origin device, a voice utterance of a callee from a destination device; means for identifying a callee identity associated with said voice utterance at said destination device. Claim 12 of the copending Application recites a system for identifying a particular callee, said system comprising: an origin device connected to a telephone network; means for detecting, at said origin device, a voice utterance of a callee from a destination device; means for identifying, at said origin device, a callee identity associated with said voice utterance, wherein said callee identity is transmittable as an authenticated identity of said callee for a call. It is clear that these two claims are very similar and are not patentably distinct from each other.

Claim 23 of the present invention recites a computer program product for identifying a particular callee, said computer program product comprising: a recording medium; means, recorded on said recording medium, for detecting a voice utterance of a callee from a destination device; and means, recorded on said recording medium, for identifying a callee identity associated with said voice utterance at said destination device. Claim 23 of the copending Application recites a computer program product for identifying a particular callee, said computer

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program product comprising: a recording medium; means, recorded on said recording medium, for detecting a voice utterance of a callee from a destination device at an origin device; means, recorded on said recording medium, for identifying a callee identity associated with said voice utterance, wherein said callee identity is transmittable as an authenticated identity of said callee for a call. It is clear that these two claims are very similar and are not patentably distinct from each other.

Regarding claims 2-6, 9-11, 13-17, 20-22 and 24-30, the claim descriptions are the same as the inventor's another application having the application no. 10015267.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 2, 4, 8, 10-13, 15, 19, 21-24, 26, 30 and 35-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Bartholomew et al. (U.S. Patent No. 6,167,119).

Regarding claim 1, Bartholomew teaches detecting, at the IP 23 (i.e. 'destination device' includes telephone, central office, IP 23) an input speech of an answering party (fig.1; col.9, lines 12-44, col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'an input speech of an answering party' reads on the claim 'a voice utterance of a callee').

Bartholomew further teaches identifying, at the IP 23 (i.e. 'destination device' includes telephone, central office, IP 23), an answering party associated with the input speech, such that the answering party identity is generated as identity of the answering party for a telephone call (fig.1; col.14, lines 9-52, col.36, lines 18-40, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee', 'input speech' reads on the claim 'voice utterance' and 'telephone call' reads on the claim 'incoming telephone call').

Regarding claims 2, 13 and 24, Bartholomew teaches instructing the answering party, from the IP 23 (i.e. 'destination device' includes telephone, central office, IP 23), to provide the input speech (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'instructing' reads on the claim 'prompting', 'answering party' reads on the claim 'callee' and 'input speech' reads on the claim 'voice utterance').

Regarding claims 4, 15 and 26, Bartholomew teaches extracting speech information from the input speech (col.43, lines 36-67, col.44, lines 1-12; 'information' reads on the claim 'characteristics' and 'input speech' reads on the claim 'voice utterance').

Bartholomew further teaches comparing the speech information to stored pattern information for identifying the answering party (col.43, lines 36-67, col.44, lines 1-12; 'information' reads on the claim 'characteristics', 'stored pattern information' reads on the claim 'a plurality of voice samples stored' and 'the answering party' reads on the claim 'a plurality of callees').

Regarding claims 8, 19 and 30, Bartholomew teaches enabling the caller to identify a preferred answering party at the IP 23 (i.e. 'destination device' includes telephone, central office,

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IP 23) (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'instructing' reads on the claim 'prompting' and 'answering party' reads on the claim 'callee').

Bartholomew further teaches inherently terminating the call if the answering party identity is different than the preferred answering party (fig.1; col.14, lines 9-52, col.43, lines 3-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee').

Regarding claims 10 and 21, Bartholomew teaches that the IP 23 (i.e. 'destination device' includes telephone, central office, IP 23) is inherently a telephony device (fig.1; col.11, lines 63-67, col.12, lines 1-49, col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12).

Regarding claims 11 and 22, Bartholomew teaches that the answering party identity comprises at least one from among an answering party name, an answering party location, a subject of the call, and a central office identification (col.41, lines 1-67, col.42, lines 1-58, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee' and 'central office' reads on the claim 'device').

Regarding claim 12, Bartholomew teaches an IP 23 (i.e. 'destination device' includes telephone, central office, IP 23) connected to an intelligent telephone network (fig.1; col.11, lines 63-67, col.12, lines 1-49, col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'intelligent telephone network' reads on the claim 'telephone network').

Bartholomew teaches detecting, at the IP 23 (i.e. 'destination device' includes telephone, central office, IP 23), an input speech of an answering party from the subscriber premises (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'an input speech of an answering party from the subscriber premises' reads on the claim 'a voice utterance of a callee from a destination device').

Bartholomew further teaches identifying an answering party identity associated with the input speech at the IP 23 (i.e. 'destination device' includes telephone, central office, IP 23) (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee' and 'input speech' reads on the claim 'voice utterance').

Regarding claim 23, Bartholomew teaches database (col.37, lines 21-32, col.42, lines 59-67, col.43, lines 1-67, col.44, lines 1-12; 'database' reads on the claim 'recording medium').

Bartholomew teaches detecting, at the IP 23 (i.e. 'destination device' includes telephone, central office, IP 23), an input speech of an answering party from the subscriber premises (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'an input speech of an answering party from the subscriber premises' reads on the claim 'a voice utterance of a callee from a destination device').

Bartholomew further teaches identifying an answering party identity associated with the input speech at the IP 23 (i.e. 'destination device' includes telephone, central office, IP 23) (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee' and 'input speech' reads on the claim 'voice utterance').

Regarding claim 35, Bartholomew teaches detecting an input speech at the IP 23 (i.e. 'destination device' includes telephone, central office, IP 23) (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'an input speech' reads on the claim 'a biometric input').

Bartholomew further teaches identifying an answering party associated with the input speech at the IP 23 (i.e. 'destination device' includes telephone, central office, IP 23), such that the answering party identity is generated as identity of the answering party for a telephone call (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the



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claim 'callee', 'input speech' reads on the claim 'biometric input' and 'answering party identity is generated as identity of the answering party for a telephone call' reads on the claim 'callee identity is transmittable as an authenticated identity of said callee for a call').

Regarding claim 36, Bartholomew teaches an input speech (col.43, lines 36-67, col.44, lines 1-12; 'an input speech' reads on the claim 'at least one from among an eye print, a finger print, a voice input, and a body heat scan').

Regarding claim 37, Bartholomew teaches an IP 23 (i.e. 'biometric enabled destination device' includes telephone, central office, IP 23) (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12).

Bartholomew teaches detecting an input speech at the IP 23 (i.e. 'biometric enabled destination device' includes telephone, central office, IP 23) (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'an input speech' reads on the claim 'a biometric input').

Bartholomew further teaches identifying an answering party associated with the input speech at the IP 23 (i.e. 'destination device' includes telephone, central office, IP 23), such that the answering party identity is generated as identity of the answering party for a telephone call (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee', 'input speech' reads on the claim 'biometric input' and 'answering party identity is generated as identity of the answering party for a telephone call' reads on the claim 'callee identity is transmittable as an authenticated identity of said callee for a call').

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Regarding claim 38, Bartholomew teaches an input speech (col.43, lines 36-67, col.44, lines 1-12; 'an input speech' reads on the claim 'at least one from among an eye print, a finger print, a voice input, and a body heat scan').

Regarding claim 39, Bartholomew teaches database (col.37, lines 21-32, col.42, lines 59-67, col.43, lines 1-67, col.44, lines 1-12; 'database' reads on the claim 'recording medium').

Bartholomew teaches detecting an input speech at the IP 23 (i.e. 'biometric enabled destination device' includes telephone, central office, IP 23) (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'an input speech' reads on the claim 'a biometric input').

Bartholomew further teaches identifying an answering party associated with the input speech at the IP 23 (i.e. 'destination device' includes telephone, central office, IP 23), such that the answering party identity is generated as identity of the answering party for a telephone call (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'answering party' reads on the claim 'callee', 'input speech' reads on the claim 'biometric input' and 'answering party identity is generated as identity of the answering party for a telephone call' reads on the claim 'callee identity is transmittable as an authenticated identity of said callee for a call').

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 3, 14 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartholomew et al. (U.S. Patent No. 6,167,119) and in view of McAllister (U.S. Patent No. 6,101,242).

Regarding claims 3, 14 and 25, Bartholomew fails to teach “prompting said callee to enter an additional input to verify said callee identity”. McAllister teaches prompting the called party for one or more repeat attempts (col.34, lines 1-61; ‘called party’ reads on the claim ‘callee’ and ‘for one or more repeat attempts’ reads on the claim ‘enter an additional input to verify said callee identity’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bartholomew to allow prompting the callee to enter an additional input as taught by McAllister. The motivation for the modification is to have the prompt in order to provide more information to verify identification of the called party.

9. Claims 5, 6, 16, 17, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartholomew et al. (U.S. Patent No. 6,167,119) and in view of Timonen et al. (U.S. Pub. No. 2002/0058494).

Regarding claims 5, 16 and 27, Bartholomew fails to teach “transmitting said voice utterance to a third party device via a network”. Timonen teaches transmitting the identification data to a third party device via a network (fig.3; page 6, paragraphs 0055, 0056; ‘identification data’ reads on the claim ‘voice utterance’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bartholomew to allow transmitting the voice utterance to a third party device via a network as taught by Timonen. The motivation for the modification is to have doing so in order to provide authentication of the party.

Bartholomew fails to teach “receiving said callee identity from said third party device”. Timonen teaches receiving the party identity from the third party device (fig.3; page 6, paragraphs 0055, 0056; ‘party identity’ reads on the claim ‘callee identity’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bartholomew to allow receiving said callee identity from the third party device as taught by Timonen. The motivation for the modification is to have doing so in order to provide the identity of the authenticated party.

Regarding claims 6, 17 and 28, Bartholomew fails to teach “requesting a voice sample for said particular callee from a third party device accessible via a network”. Timonen teaches requesting the identification data for the particular party to a third party device via a network (fig.3; page 6, paragraphs 0055, 0056; ‘identification data’ reads on the claim ‘voice sample’ and ‘party’ reads on the claim ‘callee’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bartholomew to allow requesting a voice sample for the particular callee from a third party device accessible via a network as taught by Timonen. The motivation for the modification is to have doing so in order to provide authentication of the party.

Bartholomew fails to teach “receiving said voice sample for said particular callee for enabling authenticating of said callee identity”. Timonen teaches receiving the identification data for the particular party for enabling authenticating of the party identity (fig.3; page 6, paragraphs 0055, 0056; ‘identification data’ reads on the claim ‘voice sample’ and ‘party’ reads on the claim ‘callee’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bartholomew to allow receiving the voice sample for the

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particular callee for enabling authenticating of the callee identity as taught by Timonen. The motivation for the modification is to have doing so in order to provide the identity of the authenticated party.

10. Claims 7, 18 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartholomew et al. (U.S. Patent No. 6,167,119) and in view of Silverman et al. (U.S. Patent No. 5,875,240).

Regarding claims 7 and 18, Bartholomew teaches transferring said callee identity to an IP 23 (i.e. 'destination device' includes telephone, central office, IP 23) (fig.1; col.14, lines 9-52, col.43, lines 36-67, col.44, lines 1-12; 'an input speech of an answering party' reads on the claim 'a voice utterance of a callee'). However, Bartholomew fails to teach "said origin device is enabled to output said callee identity to a caller, wherein said caller is enabled to select whether to communicate with said callee". Silverman teaches displaying the called party identification information at the end-user device to which the call is routed before the call is answered (col.2, lines 26-55; 'displaying the called party identification information' reads on the claim 'said origin device is enabled to output said callee identity to a caller' and 'the end-user device to which the call is routed before the call is answered' reads on the claim 'said caller is enabled to select whether to communicate with said callee'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bartholomew to allow displaying the callee identity as taught by Silverman. The motivation for the modification is to have the display in order to provide the information of the called party.

Regarding claim 29, Bartholomew teaches transferring said callee identity to an IP 23 (i.e. 'destination device' includes telephone, central office, IP 23) (fig.1; col.14, lines 9-52, col.43,

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lines 36-67, col.44, lines 1-12; 'an input speech of an answering party' reads on the claim 'a voice utterance of a callee'). However, Bartholomew fails to teach "said origin device is enabled to output said callee identity to a caller, wherein said caller is enabled to select whether to communicate with said callee". Silverman teaches displaying the called party identification information at the end-user device to which the call is routed before the call is answered (col.2, lines 26-55; 'displaying the called party identification information' reads on the claim 'said origin device is enabled to output said callee identity to a caller' and 'the end-user device to which the call is routed before the call is answered' reads on the claim 'said caller is enabled to select whether to communicate with said callee'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bartholomew to allow displaying the callee identity as taught by Silverman. The motivation for the modification is to have the display in order to provide the information of the called party.

11. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartholomew et al. (U.S. Patent No. 6,167,119) and in view of Baker (U.S. Patent No. 5,533,109).

Regarding claims 9 and 20, Bartholomew fails to teach "said destination device is a private exchange network". Baker teaches that the calling party device is a PBX unit (fig.1, fig.2; col.2, lines 26-55; 'calling party device' reads on the claim 'destination device' and 'PBX unit' reads on the claim 'private exchange network'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bartholomew to allow the destination device as a private exchange network as taught by Baker. The motivation for the

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modification is to have the private exchange network in order to provide the multiple users as the calling party.

***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alam Elahee whose telephone number is (703) 305-4822. The examiner can normally be reached on Mon to Fri from 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on (703)305-4717. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.

*M. E.*

MD SHAFIUL ALAM ELAHEE  
September 20, 2003

FAN TSANG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

